

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 2. The Abuse of Adults with Disabilities  
5 Intervention Act is amended by changing Section 55 as follows:

6 (20 ILCS 2435/55) (from Ch. 23, par. 3395-55)

7 Sec. 55. Access to records. All records concerning reports  
8 of abuse, neglect, or exploitation of an adult with  
9 disabilities and all records generated as a result of the  
10 reports shall be confidential and shall not be disclosed except  
11 as specifically authorized by this Act or other applicable law.  
12 A person making a report of alleged abuse, neglect, or  
13 exploitation functioning in his or her capacity as a licensed  
14 professional may be entitled to the finding of the  
15 investigative assessment and subsequent referrals as  
16 authorized by the Inspector General. Office of Inspector  
17 General (OIG) investigators shall inform the alleged victim or  
18 guardian that information regarding the finding and referrals  
19 may be released to the person who made the report if that  
20 person is a professional, and the alleged victim or guardian  
21 shall be afforded the opportunity to refuse to consent to the  
22 release of that information. Access to the records, but not  
23 access to the identity of the person or persons making a report  
24 of alleged abuse, neglect, or exploitation as contained in the  
25 records, shall be allowed to the following persons and for the  
26 following purposes:

27 (a) Adults with Disabilities Abuse Project staff in the  
28 furtherance of their responsibilities under this Act;

29 (b) A law enforcement agency investigating alleged or  
30 suspected abuse, neglect, or exploitation of an adult with  
31 disabilities;

32 (c) An adult with disabilities reported to be abused,

1 neglected, or exploited, or the guardian of an adult with  
2 disabilities unless the guardian is the alleged perpetrator of  
3 the abuse, neglect, or exploitation;

4 (d) A court, upon its finding that access to the records  
5 may be necessary for the determination of an issue before the  
6 court. However, the access shall be limited to an in camera  
7 inspection of the records, unless the court determines that  
8 disclosure of the information contained therein is necessary  
9 for the resolution of an issue then pending before it;

10 (e) A grand jury, upon its determination that access to the  
11 records is necessary to the conduct of its official business;

12 (f) Any person authorized by the Secretary, in writing, for  
13 audit or bona fide research purposes;

14 (g) A coroner or medical examiner who has reason to believe  
15 that abuse or neglect contributed to or resulted in the death  
16 of an adult with disabilities;

17 (h) The agency designated pursuant to the Protection and  
18 Advocacy for Developmentally Disabled Persons Act and the  
19 Protection and Advocacy for Mentally Ill Persons Act.

20 (Source: P.A. 91-671, eff. 7-1-00.)

21 Section 5. The Abused and Neglected Long Term Care Facility  
22 Residents Reporting Act is amended by changing Section 6 as  
23 follows:

24 (210 ILCS 30/6) (from Ch. 111 1/2, par. 4166)

25 Sec. 6. All reports of suspected abuse or neglect made  
26 under this Act shall be made immediately by telephone to the  
27 Department's central register established under Section 14 on  
28 the single, State-wide, toll-free telephone number established  
29 under Section 13, or in person or by telephone through the  
30 nearest Department office. No long term care facility  
31 administrator, agent or employee, or any other person, shall  
32 screen reports or otherwise withhold any reports from the  
33 Department, and no long term care facility, department of State  
34 government, or other agency shall establish any rules,

1 criteria, standards or guidelines to the contrary. Every long  
2 term care facility, department of State government and other  
3 agency whose employees are required to make or cause to be made  
4 reports under Section 4 shall notify its employees of the  
5 provisions of that Section and of this Section, and provide to  
6 the Department documentation that such notification has been  
7 given. The Department of Human Services shall train all of its  
8 mental health and developmental disabilities employees in the  
9 detection and reporting of suspected abuse and neglect of  
10 residents. Reports made to the central register through the  
11 State-wide, toll-free telephone number shall be transmitted to  
12 appropriate Department offices and municipal health  
13 departments that have responsibility for licensing long term  
14 care facilities under the Nursing Home Care Act. All reports  
15 received through offices of the Department shall be forwarded  
16 to the central register, in a manner and form described by the  
17 Department. The Department shall be capable of receiving  
18 reports of suspected abuse and neglect 24 hours a day, 7 days a  
19 week. Reports shall also be made in writing deposited in the  
20 U.S. mail, postage prepaid, within 24 hours after having  
21 reasonable cause to believe that the condition of the resident  
22 resulted from abuse or neglect. Such reports may in addition be  
23 made to the local law enforcement agency in the same manner.  
24 However, in the event a report is made to the local law  
25 enforcement agency, the reporter also shall immediately so  
26 inform the Department. The Department shall initiate an  
27 investigation of each report of resident abuse and neglect  
28 under this Act, whether oral or written, as provided for in  
29 Section 3-702 of the Nursing Home Care Act, except that reports  
30 of abuse which indicate that a resident's life or safety is in  
31 imminent danger shall be investigated within 24 hours of such  
32 report. The Department may delegate to law enforcement  
33 officials or other public agencies the duty to perform such  
34 investigation.

35 With respect to investigations of reports of suspected  
36 abuse or neglect of residents of mental health and

1 developmental disabilities institutions under the jurisdiction  
2 of the Department of Human Services, the Department shall  
3 transmit copies of such reports to the Department of State  
4 Police, the Department of Human Services, and the Inspector  
5 General appointed under Section 6.2. If the Department receives  
6 a report of suspected abuse or neglect of a recipient of  
7 services as defined in Section 1-123 of the Mental Health and  
8 Developmental Disabilities Code, the Department shall transmit  
9 copies of such report to the Inspector General and the  
10 Directors of the Guardianship and Advocacy Commission and the  
11 agency designated by the Governor pursuant to the Protection  
12 and Advocacy for Developmentally Disabled Persons Act. When  
13 requested by the Director of the Guardianship and Advocacy  
14 Commission, ~~or~~ the agency designated by the Governor pursuant  
15 to the Protection and Advocacy for Developmentally Disabled  
16 Persons Act, or the Department of Financial and Professional  
17 Regulation, the Department, the Department of Human Services  
18 and the Department of State Police shall make available a copy  
19 of the final investigative report regarding investigations  
20 conducted by their respective agencies on incidents of  
21 suspected abuse or neglect of residents of mental health and  
22 developmental disabilities institutions or individuals  
23 receiving services at community agencies under the  
24 jurisdiction of the Department of Human Services. Such final  
25 investigative report shall not contain witness statements,  
26 investigation notes, draft summaries, results of lie detector  
27 tests, investigative files or other raw data which was used to  
28 compile the final investigative report. Specifically, the  
29 final investigative report of the Department of State Police  
30 shall mean the Director's final transmittal letter. The  
31 Department of Human Services shall also make available a copy  
32 of the results of disciplinary proceedings of employees  
33 involved in incidents of abuse or neglect to the Directors. All  
34 identifiable information in reports provided shall not be  
35 further disclosed except as provided by the Mental Health and  
36 Developmental Disabilities Confidentiality Act. Nothing in

1 this Section is intended to limit or construe the power or  
2 authority granted to the agency designated by the Governor  
3 pursuant to the Protection and Advocacy for Developmentally  
4 Disabled Persons Act, pursuant to any other State or federal  
5 statute.

6 With respect to investigations of reported resident abuse  
7 or neglect, the Department shall effect with appropriate law  
8 enforcement agencies formal agreements concerning methods and  
9 procedures for the conduct of investigations into the criminal  
10 histories of any administrator, staff assistant or employee of  
11 the nursing home or other person responsible for the residents  
12 care, as well as for other residents in the nursing home who  
13 may be in a position to abuse, neglect or exploit the patient.  
14 Pursuant to the formal agreements entered into with appropriate  
15 law enforcement agencies, the Department may request  
16 information with respect to whether the person or persons set  
17 forth in this paragraph have ever been charged with a crime and  
18 if so, the disposition of those charges. Unless the criminal  
19 histories of the subjects involved crimes of violence or  
20 resident abuse or neglect, the Department shall be entitled  
21 only to information limited in scope to charges and their  
22 dispositions. In cases where prior crimes of violence or  
23 resident abuse or neglect are involved, a more detailed report  
24 can be made available to authorized representatives of the  
25 Department, pursuant to the agreements entered into with  
26 appropriate law enforcement agencies. Any criminal charges and  
27 their disposition information obtained by the Department shall  
28 be confidential and may not be transmitted outside the  
29 Department, except as required herein, to authorized  
30 representatives or delegates of the Department, and may not be  
31 transmitted to anyone within the Department who is not duly  
32 authorized to handle resident abuse or neglect investigations.

33 The Department shall effect formal agreements with  
34 appropriate law enforcement agencies in the various counties  
35 and communities to encourage cooperation and coordination in  
36 the handling of resident abuse or neglect cases pursuant to

1 this Act. The Department shall adopt and implement methods and  
2 procedures to promote statewide uniformity in the handling of  
3 reports of abuse and neglect under this Act, and those methods  
4 and procedures shall be adhered to by personnel of the  
5 Department involved in such investigations and reporting. The  
6 Department shall also make information required by this Act  
7 available to authorized personnel within the Department, as  
8 well as its authorized representatives.

9 The Department shall keep a continuing record of all  
10 reports made pursuant to this Act, including indications of the  
11 final determination of any investigation and the final  
12 disposition of all reports.

13 The Department shall report annually to the General  
14 Assembly on the incidence of abuse and neglect of long term  
15 care facility residents, with special attention to residents  
16 who are mentally disabled. The report shall include but not be  
17 limited to data on the number and source of reports of  
18 suspected abuse or neglect filed under this Act, the nature of  
19 any injuries to residents, the final determination of  
20 investigations, the type and number of cases where abuse or  
21 neglect is determined to exist, and the final disposition of  
22 cases.

23 (Source: P.A. 89-507, eff. 7-1-97.)

24 Section 10. The Mental Health and Developmental  
25 Disabilities Confidentiality Act is amended by changing  
26 Section 11 as follows:

27 (740 ILCS 110/11) (from Ch. 91 1/2, par. 811)

28 Sec. 11. Disclosure of records and communications. Records  
29 and communications may be disclosed:

30 (i) in accordance with the provisions of the Abused and  
31 Neglected Child Reporting Act;

32 (ii) when, and to the extent, a therapist, in his or  
33 her sole discretion, determines that disclosure is  
34 necessary to initiate or continue civil commitment

1 proceedings under the laws of this State or to otherwise  
2 protect the recipient or other person against a clear,  
3 imminent risk of serious physical or mental injury or  
4 disease or death being inflicted upon the recipient or by  
5 the recipient on himself or another;

6 (iii) when, and to the extent disclosure is, in the  
7 sole discretion of the therapist, necessary to the  
8 provision of emergency medical care to a recipient who is  
9 unable to assert or waive his or her rights hereunder;

10 (iv) when disclosure is necessary to collect sums or  
11 receive third party payment representing charges for  
12 mental health or developmental disabilities services  
13 provided by a therapist or agency to a recipient under  
14 Chapter V of the Mental Health and Developmental  
15 Disabilities Code or to transfer debts under the  
16 Uncollected State Claims Act; however, disclosure shall be  
17 limited to information needed to pursue collection, and the  
18 information so disclosed shall not be used for any other  
19 purposes nor shall it be redisclosed except in connection  
20 with collection activities;

21 (v) when requested by a family member, the Department  
22 of Human Services may assist in the location of the  
23 interment site of a deceased recipient who is interred in a  
24 cemetery established under Section 100-26 of the Mental  
25 Health and Developmental Disabilities Administrative Act;

26 (vi) in judicial proceedings under Article VIII of  
27 Chapter III and Article V of Chapter IV of the Mental  
28 Health and Developmental Disabilities Code and proceedings  
29 and investigations preliminary thereto, to the State's  
30 Attorney for the county or residence of a person who is the  
31 subject of such proceedings, or in which the person is  
32 found, or in which the facility is located, to the attorney  
33 representing the recipient in the judicial proceedings, to  
34 any person or agency providing mental health services that  
35 are the subject of the proceedings and to that person's or  
36 agency's attorney, to any court personnel, including but

1 not limited to judges and circuit court clerks, and to a  
2 guardian ad litem if one has been appointed by the court,  
3 provided that the information so disclosed shall not be  
4 utilized for any other purpose nor be redisclosed except in  
5 connection with the proceedings or investigations;

6 (vii) when, and to the extent disclosure is necessary  
7 to comply with the requirements of the Census Bureau in  
8 taking the federal Decennial Census;

9 (viii) when, and to the extent, in the therapist's sole  
10 discretion, disclosure is necessary to warn or protect a  
11 specific individual against whom a recipient has made a  
12 specific threat of violence where there exists a  
13 therapist-recipient relationship or a special  
14 recipient-individual relationship;

15 (ix) in accordance with the Sex Offender Registration  
16 Act; ~~and~~

17 (x) in accordance with the Rights of Crime Victims and  
18 Witnesses Act; ~~and~~

19 (xi) in accordance with Section 6 of the Abused and  
20 Neglected Long Term Care Facility Residents Reporting Act;  
21 and

22 (xii) in accordance with Section 55 of the Abuse of  
23 Adults with Disabilities Intervention Act.

24 Any person, institution, or agency, under this Act,  
25 participating in good faith in the making of a report under the  
26 Abused and Neglected Child Reporting Act or in the disclosure  
27 of records and communications under this Section, shall have  
28 immunity from any liability, civil, criminal or otherwise, that  
29 might result by reason of such action. For the purpose of any  
30 proceeding, civil or criminal, arising out of a report or  
31 disclosure under this Section, the good faith of any person,  
32 institution, or agency so reporting or disclosing shall be  
33 presumed.

34 (Source: P.A. 90-423, eff. 8-15-97; 90-538, eff. 12-1-97;  
35 90-655, eff. 7-30-98; 91-357, eff. 7-29-99.)

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.